

## HOUSE BILL NO. 751

INTRODUCED BY R. MAEDJE

A BILL FOR AN ACT ENTITLED: "AN ACT EXCLUDING FROM THE RULEMAKING AUTHORITY OF THE BOARD OF ENVIRONMENTAL REVIEW STORM WATER DISCHARGES FROM CONSTRUCTION ACTIVITIES THAT MEET SPECIFIC CONDITIONS; AUTHORIZING THE DEPARTMENT OF ENVIRONMENTAL QUALITY TO CHARGE A \$25 FEE; AND AMENDING SECTION 75-5-401, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 75-5-401, MCA, is amended to read:

**"75-5-401. Board rules for permits -- ground water exclusions.** (1) Except as provided in subsection (5), the board shall adopt rules:

(a) governing application for permits to discharge sewage, industrial wastes, or other wastes into state waters, including rules requiring the filing of plans and specifications relating to the construction, modification, or operation of disposal systems;

(b) governing the issuance, denial, modification, or revocation of permits. The board may not require a permit for a water conveyance structure or for a natural spring if the water discharged to state waters does not contain industrial waste, sewage, or other wastes. Discharge to surface water of ground water that is not altered from its ambient quality does not constitute a discharge requiring a permit under this part if:

(i) the discharge does not contain industrial waste, sewage, or other wastes;

(ii) the water discharged does not cause the receiving waters to exceed applicable standards for any parameters; and

(iii) to the extent that the receiving waters in their ambient state exceed standards for any parameters, the discharge does not increase the concentration of the parameters.

(c) governing authorization to discharge under a general permit for storm water associated with construction activity. ~~These~~ Except as provided in subsection (10), these rules must allow an owner or operator to notify the department of the intent to be covered under the general permit. This notice of intent must include a signed pollution prevention plan that requires the applicant to implement best management practices in accordance with the general permit. The rules must authorize the owner or operator to discharge under the

1 general permit on receipt of the notice and plan by the department.

2 (2) The rules must allow the issuance or continuance of a permit only if the department finds that  
3 operation consistent with the limitations of the permit will not result in pollution of any state waters, except that  
4 the rules may allow the issuance of a temporary permit under which pollution may result if the department  
5 ensures that the permit contains a compliance schedule designed to meet all applicable effluent standards and  
6 water quality standards in the shortest reasonable period of time.

7 (3) The rules must provide that the department may revoke a permit if the department finds that the  
8 holder of the permit has violated its terms, unless the department also finds that the violation was accidental and  
9 unforeseeable and that the holder of the permit corrected the condition resulting in the violation as soon as was  
10 reasonably possible.

11 (4) The board may adopt rules governing reclamation of sites disturbed by construction, modification,  
12 or operation of permitted activities for which a bond is voluntarily filed by a permittee pursuant to 75-5-405,  
13 including rules for the establishment of criteria and procedures governing release of the bond or other surety  
14 and release of portions of a bond or other surety.

15 (5) Discharges of sewage, industrial wastes, or other wastes into state ground waters from the following  
16 activities or operations are not subject to the ground water permit requirements adopted under subsections (1)  
17 through (4):

18 (a) discharges or activities at wells injecting fluids associated with oil and gas exploration and production  
19 regulated under the federal underground injection control program;

20 (b) disposal by solid waste management systems licensed pursuant to 75-10-221;

21 (c) individuals disposing of their own normal household wastes on their own property;

22 (d) hazardous waste management facilities permitted pursuant to 75-10-406;

23 (e) water injection wells, reserve pits, and produced water pits used in oil and gas field operations and  
24 approved pursuant to Title 82, chapter 11;

25 (f) agricultural irrigation facilities;

26 (g) storm water disposal or storm water detention facilities;

27 (h) subsurface disposal systems for sanitary wastes serving individual residences;

28 (i) in situ mining of uranium facilities controlled under Title 82, chapter 4, part 2;

29 (j) mining operations subject to operating permits or exploration licenses in compliance with The Strip  
30 and Underground Mine Reclamation Act, Title 82, chapter 4, part 2, or the metal mine reclamation laws, Title

82, chapter 4, part 3; or

(k) projects reviewed under the provisions of the Montana Major Facility Siting Act, Title 75, chapter 20.

(6) Notwithstanding the provisions of 75-5-301(4), mixing zones for activities excluded from permit requirements under subsection (5) of this section must be established by the permitting agency for those activities in accordance with 75-5-301(4)(a) through (4)(c).

(7) Notwithstanding the exclusions set forth in subsection (5), any excluded source that the department determines may be causing or is likely to cause violations of ground water quality standards may be required to submit monitoring information pursuant to 75-5-602.

(8) The board may adopt rules identifying other activities or operations from which a discharge of sewage, industrial wastes, or other wastes into state ground waters is not subject to the ground water permit requirements adopted under subsections (1) through (4).

(9) The board may adopt rules authorizing general permits for categories of point source discharges. The rules may authorize discharge upon issuance of an individual authorization by the department or upon receipt of a notice of intent to be covered under the general permit.

(10) (a) The owner or operator may discharge storm water under the general permit upon commencement of construction, without submitting to the department a notice of the intent to be covered under the general permit or a signed pollution prevention plan, if the discharges of storm water associated with construction activity meet the following conditions:

(i) the area of construction-related ground disturbance is less than 5 acres;

(ii) the ground disturbance is more than 200 feet away from any lake, reservoir, or perennial-flowing river or stream; and

(iii) all slopes within 50 feet of the construction-related ground disturbance are 3:1 or flatter.

(b) An owner or operator discharging storm water pursuant to subsection (10)(a) shall complete a written form provided by the department and pay a \$25 fee to the department."

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